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09/714,857	11/16/2000	William L. Jansen	44439.1.8.1	5894
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R Lewis Gable Cowan Liebowitz & Latman PC 1133 Avenue of the Americas New York, NY 10036-6799			VAN BRAMER, JOHN W	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/714,857	<b>Applicant(s)</b> JANSEN ET AL.
	<b>Examiner</b> John Van Bramer	<b>Art Unit</b> 3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

1) Responsive to communication(s) filed on January 7, 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,8,14,15,18,20,23 and 25-51 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,8,14,15,18,20,23 and 25-51 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/964/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Intent to File a Patent Application  
Paper No(s)/Mail Date \_\_\_\_\_

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 7, 2008 has been entered.

***Response to Amendment***

2. The amendment filed on January 7, 2008 cancelled claim 22. New claims 50 and 51 were added and Claims 1, 23, 27, 28, 32-35, 38, 39, 41, and 43-49 were amended. Thus, the currently pending claims considered below are Claims 1, 8, 14, 15, 18, 20, 23, 25-51.

***Claim Rejections - 35 USC § 112***

3. The amendment filed on January 7, 2007 has corrected the 35 U.S.C. 112 deficiency of Claim 49 raised in the Office Action dated December 8, 2006. Thus, the examiner hereby withdraws the rejection.

4. The amendment filed on January 7, 2007 has failed to correct the 35 U.S.C. 112, second paragraph rejection detailed in the Office Action dated December 8, 2006. Thus, the rejection is maintained.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 8, 14, 15, 18, 20, 23, and 25 - 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Postrel (6,594,640).

Claim 1: Postrel discloses a computerized method of tracking and using first and second point-to-credit conversion rates to convert respectively a user's first and

second loyalty program award points to system-wide credits, said method comprising the steps of:

- a. Awarding first and second loyalty program award points to a user under the first and second loyalty programs respectively. (Col 1, lines 14 – 29 and Col 3, lines 30 – 40 and Col 3, line 58 through Col 4, line 44)
- b. Constructing said first and second point-to-credit conversion rates by determining the first and second values of at least one of said first and second loyalty programs respectively in terms of said system-wide credits, whereby said first and second values differ from each other (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31)
- c. Using the first and second point-to-credit conversion rates to convert respectively the user's first and second loyalty program award points into system-wide credits, each of the system-wide credits being of a common value. (Col 3, lines 30 – 40; Col 9, lines 10 – 12; and Col 10, lines 18 – 20)
- d. Providing to the user on-line access to at least one vendor that provides discounts for its products and/or services based on the number of system-wide credits that a user has. (Col 7, lines 1 – 41)
- e. Enabling the vendor to determine a price for each of its products and/or services in terms of the number of system-wide credits required for the user to select and purchase a selected one of the vendor's products and/or services, and the amount of the discount off of the price of the selected one of the products or services. (Col 7, lines 1 – 41)

- f. Enabling the vendor to apply the discount to the price of one of the products or services selected by the user if the user has accumulated at least the number of system-wide credits set by the vendor. (Col 7, lines 1 – 41)

Claim 8: Postrel discloses the method of claim 1 further comprising the step of updating the number of the user's system-wide credits after the purchase of a product and/or service by the user. (Col 6, lines 1 – 52 and Col 7, lines 25 – 41).

Claim 14: Postrel discloses the method of claim 1 further including the step of displaying to the user the current number of the user's system-wide credits acquired by user. ((Col 8, line 65 through Col 9, line 1)

Claim 15: Postrel discloses the method of claim 1 further comprising the steps of updating the number of the points of at least one of the user's first and second loyalty programs. (Col 7, lines 25 – 41)

Claim 18: Postrel discloses the method of claim 33 including the further steps of providing the information regarding the products and/or services for sale to the user via communication with the one vendor of the products or services. (Col 7, lines 1 – 10)

Claim 20: Postrel discloses the method of claim 33 including the further step of allowing the user to register with at least one of the plurality of loyalty programs as a member via an on-line registration form. (Col 6, lines 10 – 12 and Col 8 lines 4 – 26)

Claim 23: Postrel discloses a computerized system for managing a plurality of loyalty programs utilizing the internet to accumulate the award points issued by the plurality of loyalty programs and to redeem the award points for items and/or services as selected by a user, the award points of at least one of the plurality of loyalty programs differing in value from the award points of another loyalty program of the plurality, said system comprising:

- (a) Means for converting the user's award points issued by the plurality of loyalty programs into system-wide credits, each system-wide credit being of a common value by determining the value of each of the award points and expressing the value of each of the award points in terms of system-wide credits. (common credits) (Col 3, lines 30 – 40; Col 9, lines 10 – 12; and Col 10, lines 18 – 20)
- (b) A credits database for storing a balance of each of the system-wide credits for each user associated with at least one of the plurality of loyalty programs; (reward exchange account) (Col 6, lines 1 – 52)
- (c) A first communication means connected to said credits database; (Figure 5, and Col 5, lines 3 – 60)

- (d) A second communication means connected to at least one of a plurality of vendors of items offered to the user to enable the user to select at least one of the items and/or services. (Figure 5 and Col 5, lines 3 – 60) and
- (e) Means for enabling the one vendor to access via said first communication means at least one of the balances of the system-wide credits stored in said credits database, whereby the *one* vendor can control the number of the one user's balance of system-wide credits that is required to enable a transaction involving the acquiring of selected items offered to the one user. (Col 5, lines 3 – 60)

Claim 25: Postrel discloses the computerized system of claim 23 further comprising a plurality of interactive communication means connected to at least one of the plurality of vendors for distributing to the user the items offered for exchange by the one vendor. (Col 5, lines 3 – 50)

Claim 26: Postrel discloses the computerized method of claim 1, wherein the user is enabled to receive loyalty program award points from a selected one of the plurality of loyalty programs. (Col 7, lines 45 – 61)

Claim 27: Postrel discloses the computerized system of claim 23, wherein there is included means for enabling the user to select the number of system-wide credits from each of the loyalty programs and to redeem the items or services as selected by the user. (Col 7, line 1 through Col 8, line 3)

Claim 28: Postrel discloses the computerized system of claim 23, wherein there is included a plurality of loyalty program point databases, each loyalty point database associated with a corresponding one of the plurality of loyalty programs and includes a plurality of files, each file storing a balance of the points for a corresponding one of the users. (Col 7, line 1 through Col 8, line 3)

Claim 29: Postrel discloses the computerized system of claim 23, wherein the vendor is enabled to determine whether a user's transaction is eligible to be exchanged for system-wide credits. (Col 7, lines 1 – 41)

Claim 30: Postrel discloses the computerized system of claim 23, wherein there is included means for enabling each of the plurality of vendors to determine the number of system-wide credits for which an item is eligible to be exchanged. (Col 7, lines 1 – 41)

Claim 31: Postrel discloses the computerized system of claim 23, wherein there are means to enable the vendor to determine the number of system-wide credits that are required to achieve a desired discount for the user. (Col 7, lines 1 – 41)

Claim 32: Postrel discloses the computerized system of claim 23, wherein there is included a user terminal for displaying to the user the number of system-wide credits

needed to accept the transaction proposed by the user. (Col 8, line 65 through Col 9, line 1)

Claim 33: Postrel discloses a computerized method of tracking and using first and second points to system-wide credits conversion rates to convert respectively a user's first and second loyalty points to system-wide credits, each system-wide credit being of a common value, whereby the user can select and request at least one item offered by at least one vendor, said method comprising the steps of

- (a) Obtaining a number of loyalty program award points awarded to a user under corresponding ones of the first and second loyalty programs, the first loyalty program points differing in value from the second loyalty program points; (Abstract, Figure 5, Col 1, lines 14 – 29, and Col 3, lines 30 – 40 and 58 – 60)
- (b) Using the first and second points-to-credit conversion rates to convert respectively the user's first and second loyalty program award points to system-wide credits; (Abstract, Figure 5, Col 1, lines 14 – 29, and Col 3, lines 30 – 40 and 58 – 60)
- (c) Transmitting to the one vendor a request from the user for the one requested item; (Col 7, lines 1 – 41) and
- (d) Enabling the one vendor in its sole discretion to respond to the item request to determine the amount of a discount from the cost of the requested item or service independent of the number of system-wide credits accumulated by the user. (Col 7, lines 1 – 41; and Col 10, lines 26-30)

Claim 34: Postrel discloses the method of claim 33; further comprising the step of enabling the one vendor to determine for each of its items or services the predetermined number of system-wide credits required to permission the user to request the corresponding item. (Col 7, lines 1 – 41)

Claim 35: Postrel discloses the method of claim 34, further comprising the step of enabling the one vendor in its sole judgment to set the predetermined number of system-wide credits required to permission the user to request the corresponding item or services. (Col 7, lines 1 – 41)

Claim 36: Postrel discloses the method of claim 35, further comprising the step of enabling the vendor to access the number of system-wide credits accumulated by the user and, if the number of system-wide credits accumulated by the user is not less than the predetermined number of system-wide credits, permissioning the one vendor to enable the user to transmit to the one vendor the user's request for the corresponding item. (Col 7, lines 1 – 41)

Claim 37: Postrel discloses the method of claim 36, further comprising the step of applying the predetermined discount to the price of the one item selected by the user. (Col 10, lines 37 – 44)

Claim 38. Postrel discloses a computerized method of tracking and awarding points of at least one loyalty point program to a member of the one loyalty point program, said method comprising the steps of:

- a) Determining a total number of points awarded to the one member of the one loyalty point program. (Col 8, line 65 through Col 9, line 21)
- b) Converting the total number of points awarded to a credit. (Col 8, line 65 through Col 9, line 21)
- c) Providing the member access over a communications network to at least one vendor offering for sale at a discount at least one item or service having a predetermined price. (Col 9, lines 22-44)
- d) Enabling the vendor in its sole discretion to set the discount for its one item or service. (Col 10, lines 36-58)
- e) Applying the discount to the predetermined price to provide a discounted price for the one item. (Col 10, lines 36-58)
- f) Rendering the one user eligible to sell the one item if the credit is greater than the discounted price of the one item or service. (Col 9, lines 22-44) (The term user is interpreted to be the Merchant. Should the applicant mean that the consumer is the user then the claim would have been retractable by original presentation based upon the originally filed claims.)

Claim 39. Postrel discloses the method of tracking and awarding points as claimed in claim 38, wherein the credit has a value of the total number of points awarded to the one member. (Col 8, line 65 through Col 9, line 21)

Claim 40. Postrel discloses the method of tracking and awarding points as claimed in claim 38, wherein the discount is based on the credit. (Col 10, lines 36-58)

Claim 41. Postrel discloses the method of tracking and awarding points as claimed in claim 38, wherein the step b) of converting the user's awarded points into the credit comprises the sub step of calculating from the user's awarded points of the one loyalty program a proportionate number of the system-wide credits. (Col 3, lines 30 – 40; Col 8, line 65 through Col 9, line 21; and Col 10, lines 18 – 20)

Claim 42. Postrel discloses the method of tracking and awarding points as claimed in claim 38, wherein the step b) of converting the user's awarded points into the credit includes the sub step of converting the user's awarded points into each of a plurality of loyalty programs. (Col 10, lines 59-67)

Claim 43. Postrel discloses the method of tracking and awarding points as claimed in claim 38, wherein there is included a plurality of loyalty point programs, each of which awards points to the user. (Col 6, lines 1-52)

Claim 44. Postrel discloses the method of tracking and awarding points as claimed in claim 43, wherein said step of determining the number of points awarded to the user from at least one loyalty program includes the sub step of determining the number of award points awarded under each loyalty program. (Col 9, lines 39-64)

Claim 45. Postrel discloses the method of tracking and awarding points as claimed in claim 38, wherein there is further included the steps of determining if the user is eligible, the user selects the item or service to be purchased and a message is transmitted over the communications network to the one loyalty program to effect the redemption of the discounted price of the item or service. (Col 8, line 65 through Col 9, line 44)

Claim 46. Postrel discloses the method of tracking and awarding points as claimed in claim 38, wherein step b) comprises a sub step of converting the user's awarded points from a plurality of loyalty programs of the user. (Col 7, lines 1-41)

Claim 47. Postrel discloses a computerized method of determining whether a user is eligible to be awarded first and second loyalty points from at least first and second loyalty point programs respectively, the value of the first loyalty points differs from the value of the second loyalty points, the user being a member of both of the first and second loyalty point programs, a vendor offering for sale various items, each of the plurality of items or services having a predetermined price, said method comprising the steps of:

- a) Providing the member access over a communications network to a vendor to select at least one of the pluralities of items or services and determining the item's predetermined price. (Col 8, line 65 through Col 9, line 44)
- b) Selecting first the first loyalty program as a source of first points with which to purchase the selected item or service. (Col 7, lines 1-41, and Col 10, 18-20)
- c) Converting the selected first points to system points and determining the first value of the converted system points. (Col 7, lines 1 through Col 8, line 3; and Col 10, 18-20)
- d) Determining the eligibility of the member to receive the selected item to be purchased by the member by comparing the predetermined price of the selected item or service with the value of the system points and, if the value of the system points is greater than the predetermined price of the selected item or service, proceed to purchase the selected item or service for the member. (Col 9, lines 22-44)

e) If the value of the system points is less than the price of the selected item or service, selecting second the second loyalty point program as a source of second points with which to purchase the selected first item. (Col 7, lines 1 through Col 8, line 3)

Claim 48. Postrel discloses the computerized method of determining as claimed in claim 47, wherein there is further included the steps of:

- a) Converting the selected second loyalty points to system-wide credits and determining the value of the converted system-wide credits. (Col 7, lines 1 through Col 8, line 3; and Col 8, line 65 through Col 9, line 21)
- b) Adding the first and second values of the first and second points to provide a composite point value. (Col 7, lines 1 through Col 8, line 3)
- c) Determining again the eligibility of the user to receive the selected item or service to be purchased by the member by comparing the predetermined price of the selected item with the composite point value and, if the composite point value is greater than the predetermined price of the selected item or service, proceed to purchase the selected item or service for the member. (Col 7, lines 1 through Col 8, line 3)

Claim 49. Postrel discloses the computerized method of determining as claimed in claim 48, wherein if the composite point value is less than the predetermined price of the item, proceed to repeat steps b, c, d and e of claim 47,

until there are no further loyalty point program to be selected as a source of points with which to purchase the selected item. (Col 7, lines 1 through Col 8, line 3)

Claim 50: Postrel discloses the computerized method as claimed in claim 33, wherein at least one unit of the value of the first and second loyalty points is expressed in terms of the system-wide credits. (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31)

Claim 51: Postrel discloses a computerized method of facilitating at least one of a plurality of vendors to market at least one item and/or service to at least one user, each user has an account stored in a memory, said method of marketing comprising the steps of:

- a. Awarding at least one loyalty point to the one user, and accumulating a number of the awarded loyalty points to be stored in the memory account for that one user. (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31)
- b. Enabling the one user to select at least one vendor and at least one item and/or service to be purchased from the selected vendor. (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31)

- c. Constructing a point to system-wide exchange rate in terms of at least one loyalty point being valued as corresponding system-wide currency units. (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31)
- d. Converting the corresponding number of loyalty points into a given amount of system-wide currency units as the product of the number of loyalty points and the points to system-wide exchange rate. (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31)
- e. Using the number of system-wide current units to purchase items and or services from one of a plurality of vendors, wherein each of the system-wide currency units is of the same value and currency. (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31)

***Response to Arguments***

8. Applicant's arguments filed January 7, 2008 have been fully considered but they are not persuasive. The arguments directed toward the newly submitted claims and the amended claims have been addressed in the Office Action above.
  - a. The applicant argues that Postrel does not disclose the nature of Postrel's input to the conversion rate, the nature of the conversion process, and/or the value or nature of the output or conversion rate as calculated by Postrel. As such the

applicant argues that Postrel is silent as to the process of how the conversion is carried out, the nature of the input to the conversion process and the output of the process. However, Postrel discloses points in multiple loyalty point programs that are able to be converted into an exchange account that contains system wide credits for use at any merchant (Fig. 5 Merchant Conversion Rates; Col 3, lines 30 – 40; Col 7, lines 1-41; Col 9, lines 10-12; Col 10, lines 18-20; and Col 12, lines 16-31). Thus, Postrel discloses the limitations of the applicants claims as currently written. Should the applicant wish to incorporate a specific formula, such as the one put forth in their arguments, for the calculation of the conversion into the claims further search and/or consideration may be required.

- b. The applicant argues that system wide credits and multiple loyalty programs of different clause are not taught by the Postrel reference, even thought the examiner has cited relevant teaching within the Postrel reference that teach the use of system wide credits and multiple loyalty programs in the rejection and response to arguments of the Office Actions dated July 20, 2005 and April 23, 2006. The applicant asserts that the teaching of a plurality of independent loyalty point programs does not discloses that these loyalty programs are of different values. However, Col 5, lines 12-16, specifically describe two separate programs that determine points in two separate manners one based upon purchases and one bask on selecting advertising. Postrel further discloses converting these different points into a system wide “reward exchange account” in Col 7, lines 1-41. Additionally, a conversion value is applied to the points in

Col 9, lines 5-21. If the points in the separate loyalty programs were not of different values, no conversion value would be necessary. Finally, Postrel specifically states that the value of points in each loyalty program can fluctuate based on company specific data (Col 12, lines 16-31). Therefore, Postrel teaches loyalty programs with points of differing values that are converted into system-wide points for use to purchase items from one or more merchants.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JV  
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Examiner, Art Unit 3622

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Supervisory Patent Examiner, Art Unit 3622